Basics & Best Practices

June 3, 2015
10:30 a.m.

Objectives

- **Review Basic Provisions of FECA**
- Examine Recordkeeping and Filing Requirements
- Recommend "Best Practices"
- Highlight Compliance Resources

PART 1: BASIC PROVISIONS OF THE FEDERAL CAMPAIGN FINANCE LAW

Federal Election Campaign Act

- Limits sources and amounts of funds used to finance federal elections
- Requires candidates and committees that support them to register and report activity
- Establishes FEC to administer and enforce law

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I. Contribution Prohibitions

Contribution Source Limits

- Prohibited Sources of Contributions
  - Corporations and Unions
  - Federal Government Contractors
  - Foreign Nationals
  - Contributions in Name of Another

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A. **Corporations (including incorporated membership, trade and cooperative organizations or associations), labor organizations and national banks** are prohibited from making contributions in connection with federal elections. **11 CFR 114.2.** Therefore, they <u>may not</u>:
   1. **Act as conduit for earmarked contribution.**
   2. **Give discount to campaign or committee that is not in normal business practice.**
   3. **Allow use of facilities or resources without reimbursement, and, in some cases, advance payment.**

B. **Federal Government Contractors (11 CFR Part 115)**

C. **Foreign Nationals (11 CFR 110.20)**
   1. **American subsidiary of foreign corporation may establish SSF only if:**
      a) Foreign nationals do not control or participate in decisions of SSF; and
      b) SSF is not administered or otherwise funded with foreign revenues.
   2. **Ban does not apply to permanent resident aliens (green card holders).**
   3. **Individuals who are foreign nationals may:**
      a) Volunteer for Congressional campaign. AOs 2014-20, 2007-22 and 2004-26.
      b) Attend campaign fundraising events. AO 2004-26.
      c) They may not, however, participate in decision-making regarding election activities for a political committee. AOs 2004-32 and 2004-26.

D. **Contributions in Name of Another (11 CFR 110.4(b))**
   1. Cannot reimburse or be reimbursed for contributions.
   2. Parents cannot give in names of children.
   3. BCRA increased penalties for violations of this ban.

Contribution Source Limits

- Prohibited in All U.S. Elections
  - Foreign Nationals
  - National Banks
  - Federally Chartered Corporations

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E. Certain Prohibitions Apply to All Elections (11 CFR 114.2(a))

1. Foreign nationals
2. National banks
3. Federally chartered corporations

II. Handling Questionable Contributions to Federal Account (11 CFR 103.3)

Questionable Contributions

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Questionable Contributions

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Questionable Contributions

- Deposit or return ≤ 10 days of receipt
- Determine legality ≤ 30 days
- Seek oral or written evidence for files
- Retain or refund, as appropriate

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A. Deposit While Checking

If unsure whether contribution is from a permissible source, party may deposit it while confirming permissibility.

B. Refund After 30 Days If Unable to Verify Legality

Within 30 days of receipt, must refund if unable to determine if contribution is permissible.

III. Contribution Amount Limits (11 CFR 100.52)

A. Broad Definition

Anything of value given or loaned to influence a federal election.

B. Types

1. Money
2. In-Kind (goods and services)
3. Loans of money or advances of goods and services
4. Bank loan endorsements and guarantees
5. Advances of personal funds by staff and volunteers
6. Proceeds from sales of fundraising items
7. Extension of credit to committee outside ordinary course of business

Limits to Campaign Committees

For 2015–16 Elections	Candidate Committee per election	PAC (SSF and Nonconnected) per year	State, District & Local Party Committee per year	National Party Committee per year	Additional National Party Committee Accounts per year
Individual	$2,700	$5,000	$10,000 (combined)	$33,400	$100,200
Candidate Committee	$2,000	$5,000	Unlimited Transfers	Unlimited Transfers	
PAC: multicandidate	$5,000	$5,000	$5,000 (combined)	$15,000	$45,000
PAC: Nonmulticandidate	$2,700	$5,000	$10,000 (combined)	$33,400	$100,200
National Party Committee	$5,000 – House $46,800 per cycle- Senate	$5,000	Unlimited Transfers	Unlimited Transfers	
State, District & Local Party Committee	$5,000 (combined)	$5,000 (combined)	Unlimited Transfers	Unlimited Transfers	

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C. Contribution Limits (11 CFR 110.1 and 110.2)

1. Certain Limits Increased and Indexed for Inflation

a) Candidate and party limits increased and indexed; multicandidate committee limits unchanged.

b) Indexing began in 2005 – odd-numbered years.

2. How Applied

a) Limits apply to contributions received and contributions made by committee.

b) If made by an individual, counts against the limit of the person signing the check or accompanying note.

3. Presidential

a) Primaries – One limit for all.

b) General – No contributions if candidate accepts public funds. (See AO 2007-03, Obama)

c) General Election Legal and Compliance (GELAC) Fund – OK if donations comply with limits.

4. Printable chart at: http://www.fec.gov/info/contriblimitschart1516.pdf

Limits from Campaign Committees

For 2015–16 Elections	Candidate Committee per election	PAC (SSF and Nonconnected) per year	State, District & Local Party Committee per year	National Party Committee per year	Additional National Party Committee Accounts per year
Individual	$2,700	$5,000	$10,000 (combined)	$33,400	$100,200
Candidate Committee	$2,000	$5,000	Unlimited Transfers	Unlimited Transfers	
PAC: multicandidate	$5,000	$5,000	$5,000 (combined)	$15,000	$45,000
PAC: Nonmulticandidate	$2,700	$5,000	$10,000 (combined)	$33,400	$100,200
National Party Committee	5,000 – House $46,800 per cycle- Senate	$5,000	Unlimited Transfers	Unlimited Transfers	
State, District & Local Party Committee	$5,000 (combined)	$5,000 (combined)	Unlimited Transfers	Unlimited Transfers	

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Multicandidate v. Nonmulticandidate

For 2015-16 Elections	Candidate Committee per election	PAC (SSF and Nonconnected) per year	State, District & Local Party Committee per year	National Party Committee per year	Additional National Party Committee Accounts per year
Individual	$2,700	$5,000	$10,000 (combined)	$33,400	$100,200
Candidate Committee	$2,000	$5,000	Unlimited Transfers	Unlimited Transfers	
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National Party Committee	5,000 – House $46,800 per cycle- Senate	$5,000	Unlimited Transfers	Unlimited Transfers	
State, District & Local Party Committee	$5,000 (combined)	$5,000 (combined)	Unlimited Transfers	Unlimited Transfers	

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Multicandidate Status

- Registered with FEC 6 months
- Received contributions > 50 donors
- Made contributions to $\geq$ 5 candidates
- Alternative: affiliated with one/more multicandidate committees

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D. Multicandidate Committee Status (11 CFR 100.5(e))

1. **Why Important:**
   Determines whether PAC or party committee can give up to $5,000 to candidate, per election (and whether candidate can accept it).
2. **Criteria**
   a) Registered with FEC 6 months.
   b) Received contributions from more than 50 contributors.
   c) Has made contributions to at least 5 federal candidates (not needed for state party committee).
   d) Alternative: be affiliated with multicandidate committee.

E. Affiliated Committees (11 CFR 100.5(e) and 110.3(a)(3))

1. **How to Determine:**
   a) Principle: committees established, financed, maintained, or controlled by same entity or group of persons.
   b) Others may also be affiliated depending on various factors, such as similar patterns of contributions, common officers, etc. See 11 CFR 100.5(g) & 110.3(a).
2. **Example:**
   Principal campaign committee and all authorized committees; limits on contributing to candidate apply on per election basis.

Affiliated Committees

Generally treated as one committee for purposes of federal campaign finance law:

- Share limits on contributions made and received

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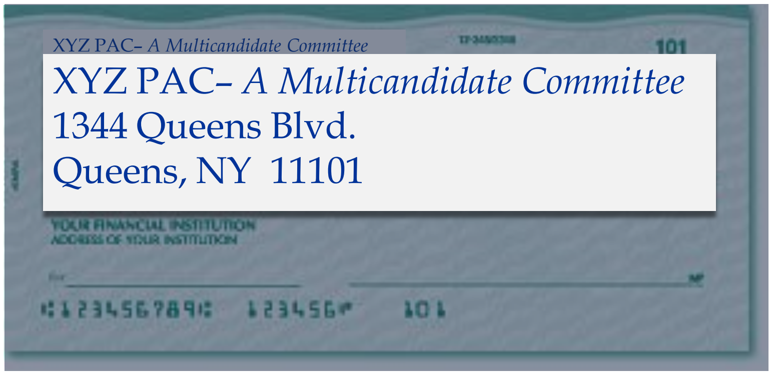
3. Why Important:

a) Same contribution limit applies to contributions received and made by affiliated committees.

b) If one committee qualifies as multicandidate, all its affiliated committees qualify.

c) No limit on transfers between affiliated committees.

Multicandidate Status



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F. Multicandidate Committee Responsibilities

1. Inform the FEC of Status

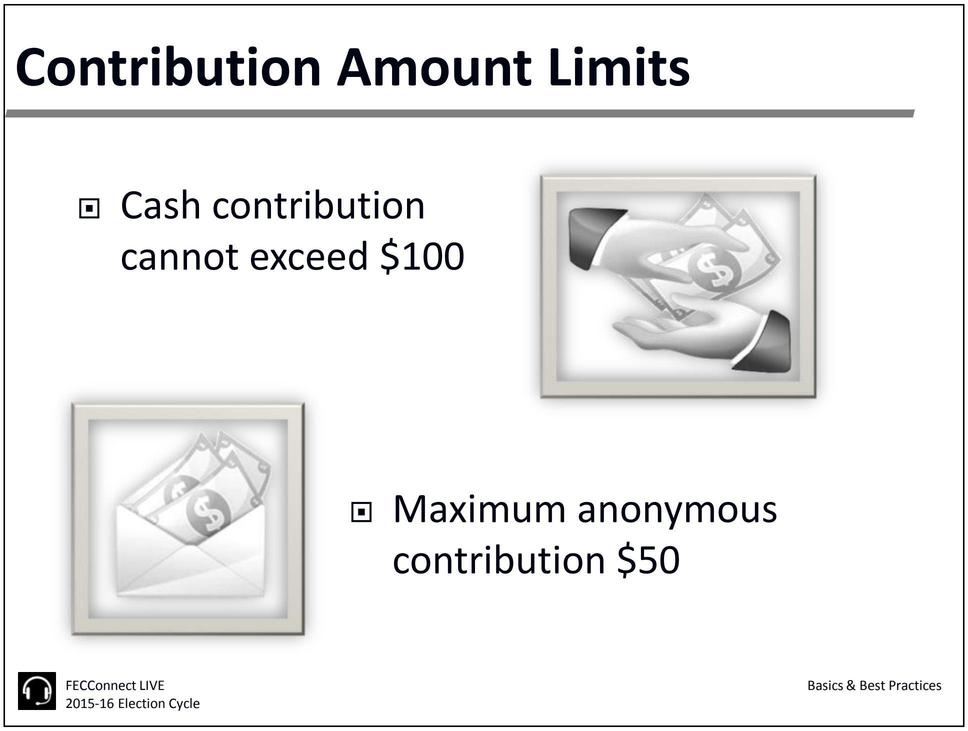
a) PACs and Party committees must file Form 1M within 10 days of qualifying as multicandidate committee.

b) Check box at end of page 2, Form 3X.

2. Inform the Campaigns of Status

a) Multicandidate committee must inform recipients that it has qualified as multicandidate committee.

b) Call FEC's Public Records Office to verify status as *qualified* multicandidate committee.



G Other Contribution Limits

1. Cash Contributions – $100

2 Anonymous Contributions – $50

IV. Sources of Support

Sources of Support

- Contributions
- **Exempt Services**

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Sources of Support

Exempt from Definition of Contribution/Expenditure

- Volunteer Services
- Use of Personal Property
- Food/Beverage Vendor Discount
- Home/Church/Community Room Event
- Computer Services
- Free Legal and Accounting

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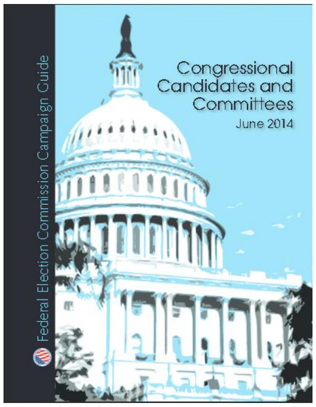
A. **Volunteer Exemptions** (*Guide*, pp. 39-41)

1. **Volunteer Services**
   An individual may volunteer uncompensated personal services without contribution resulting. Volunteer activity is NOT reportable. An individual's own meals and lodging not a contribution, as long as the expenses are incidental to volunteer activity.
2. **Use of Personal Property**
   Individual may provide use of his/her real or personal property without contribution resulting (e.g., home or computer).
3. **Food/Beverage Vendors** (*Guide*, p. 42)
   Vendor (may be incorporated) may sell food and beverages to campaign at a discount (must at least equal actual cost to vendor) not to exceed $1,000 per candidate/per election.
4. **Home/Church/Community Room Event** (*Guide*, p. 40)
   Individual may spend up to $1,000 per election for food, beverages and invitations for event held in residence, church or community room without contribution resulting (nominal fee paid to secure room exempt).
5. **Computer Services** (*Guide*, p. 39-41)
   Individuals may use a computer for a wide variety of activities in connection with federal elections that will not result in a contribution or expenditure (i.e., sending or forwarding unlimited emails on any political topic; creating, maintaining or hosting a website).
6. **Free Legal and Accounting Services** (*Guide*, pp. 39)
   Any entity (e.g. committee, corporation, union, partnership) may provide the campaign free legal and accounting services to help the campaign comply with the Act.

Sources of Support



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http://www.fec.gov/pdf/candgui.pdf

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Sources of Support

- Contributions
- Exempt Services
- **Coordinated Party Expenditures**

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Coordinated Party Expenditures

Limited amounts state and national party committees may spend on behalf of—and in coordination with—general election nominees

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B. Coordinated Party Expenditures (11 CFR 109.32 through 109.37)

1. Expenditures made by a party committee on behalf of its nominee in the general election. The "coordinated party expenditure" limit (calculated each election cycle) is *separate* from the contribution limit to the candidate. Expenditures may range from paying bills for candidate to paying for "coordinated communications" on behalf of the candidate.
2. **2015 Coordinated Party Expenditure Limits:**
   - House elections: $48,000
   - House election where state has only one district: $96,000
   - Senate elections: Varies by state, depends on voting age population.
   - See: http://www.fec.gov/law/cfr/ej_compilation/2015/notice2015-01.pdf

Sources of Support

- Contributions
- Exempt Services
- Coordinated Party Expenditures
- **Independent Expenditures**

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Independent Expenditure

Payment for communication that expressly advocates election or defeat of clearly identified candidate, but is not made in cooperation, consultation or in concert with, or at the request or suggestion of, the candidate or his/her campaign, or a political party committee or the agents of either.

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C. Independent Expenditures (11 CFR 100.16)

1. Definition

Expenditure for communication that "expressly advocates" the election or defeat of a clearly identified candidate and that is not made in cooperation with, or at the request or suggestion of, the candidate or his/her campaign or its agents, or a political party or its agents.

Independent Expenditure

- No limit on amount of expenditure
- Corporations and labor organizations may make IEs, but prohibited in-kind contribution results if coordinated

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2. The Basics

a) No Limits if Definition Met
One may spend an unlimited amount because the expenditure is not coordinated (and thus, a contribution).

b) If Coordinated, In-kind Contribution Results (11 CFR 109.21)
Corporation prohibited from making (coordinated) in-kind contribution.

c) Disclaimer required

Supporting Candidates

- Contributions
- Exempt Services
- Coordinated Party Expenditures
- Independent Expenditures
- **Disclaimers**

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Disclaimers

- Identify who paid for a communication
- Clarify whether a campaign authorized it
- Appear on all "public communications," widely distributed emails, public websites

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V. Disclaimer Notices on Communications (11 CFR 110.11)

A. Basic Rules

1. Identifies who paid for a public communication
2. Clarifies whether a campaign authorized it
3. Required on all "public communications," widely distributed emails and public websites

B. Public Communication Defined (11 CFR 100.26)

Includes communications made using the following media:

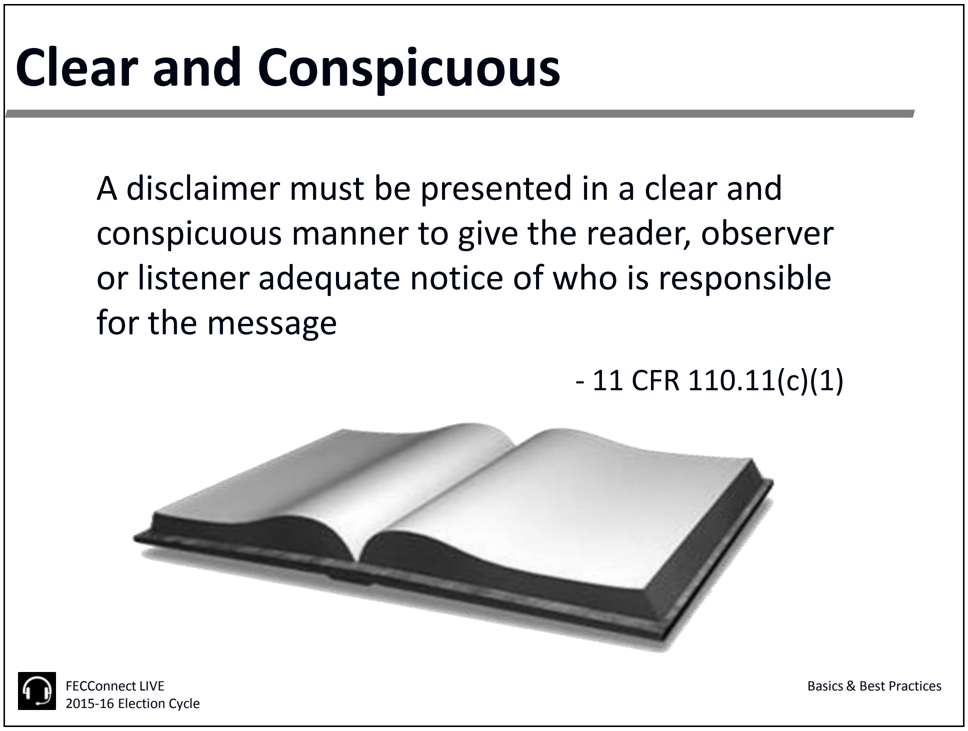
1. Broadcast, cable or satellite;
2. Newspaper or magazine;
3. Outdoor advertising facility;
4. Mass mailing (>500 substantially similar mailings w/in 30 days);
5. Phone bank (>500 substantially similar calls w/in 30 days);
6. Communications placed for a fee on another person's web page.

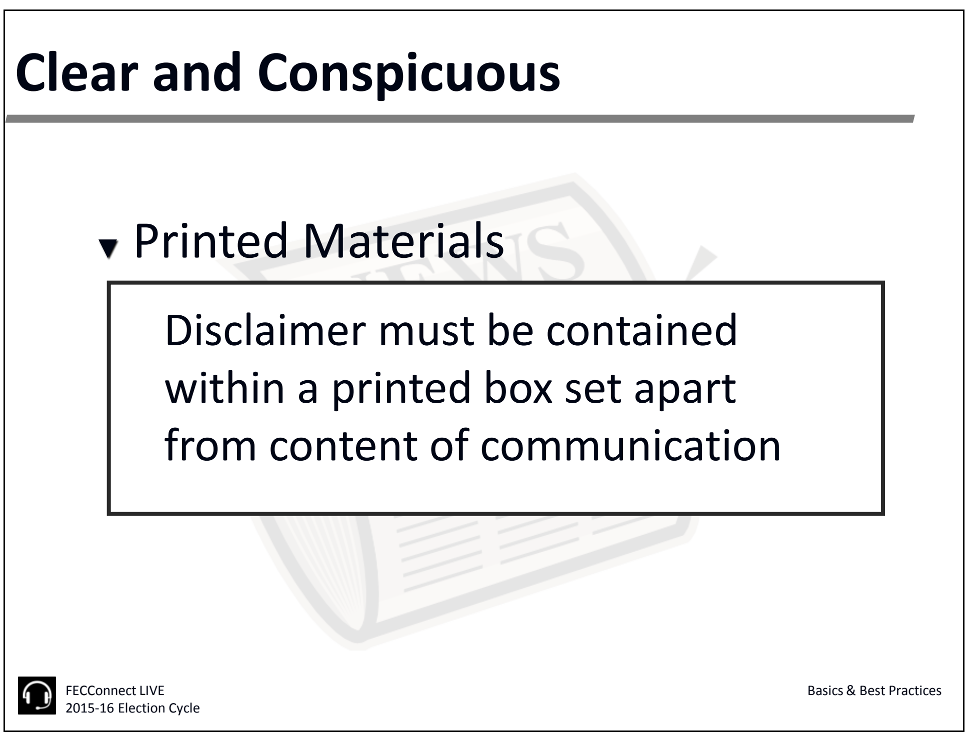
C. Disclaimer Also Required On:

1. Electronic mail (> 500 substantially similar communications sent by a campaign committee); and
2. Websites of political committees.

D. Clear and Conspicuous Placement of Disclaimer Notice

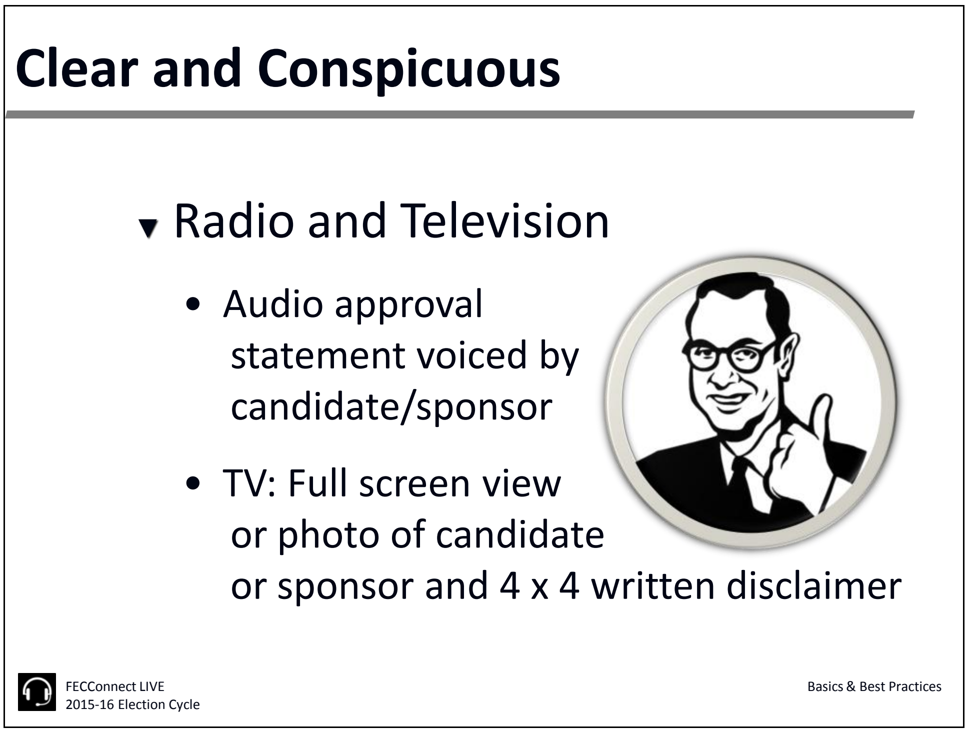
Disclaimer notices must be clearly and conspicuously displayed. Cannot be difficult to read or placed where it is easily overlooked.





E. Special Rules for Printed Communications

1. Disclaimer must be contained within a printed box set apart from content of communication.
2. Print must be of sufficient type size to be "clearly readable" and must have a reasonable degree of color contrast between the background and the printed statement.
3. Safe Harbor: 12 point type in newspapers; magazines; flyers; signs; and other printed communications no larger than 24" x 36."



F. Special Rules for TV and Radio Ads (11 CFR 110.11(c)(3)(iv)(A) &(B)

1. Basic requirements (11 CFR 110.11(c)(3)-(4))

Communications broadcast via radio or television must include both:

a) The regular "paid for by" disclaimer; and

b) A statement by the candidate broadcasting the message indicating that he or she is responsible for the content of the advertisement. Example:
I am [Candidate Name], a candidate for [office sought], and I approved this advertisement.

2. Specifics:

a) For radio:

The "Stand by Your Ad" language is spoken by either the candidate (for authorized committees) or a representative of the organization responsible for the ad (for messages not authorized or paid for by a campaign).
11 CFR 110.11(c)(3)(i) and (c)(4)(i). In addition, the ad must contain the basic disclaimer language described above.

b) For television:

(1) The ad must contain an unobscured, full-screen view of the candidate making the "Stand by Your Ad" statement, or a voice-over by the candidate, accompanied by a clearly identifiable image of the candidate (at least 80% of vertical screen height). 11 CFR 110.11(c)(3)(ii).

(2) In addition, the printed statement must be included with the standard disclaimer appearing at the end of the message, and must be clearly readable. To meet the readability requirement, the statement must:

- Appear in letters equal to or greater than 4% of the vertical picture height.
- Be visible for at least four seconds.
- Have a reasonable color contrast with the background (e.g. black text on a white background).

11 CFR 110.11(c)(3)(iii).

G. Special Wording for TV and Radio Ads Paid for NOT Paid for By a Candidate's Committee (11 CFR 110.11(c)(4))

1. For a communication that has been authorized by a candidate but has been paid for by any other person:

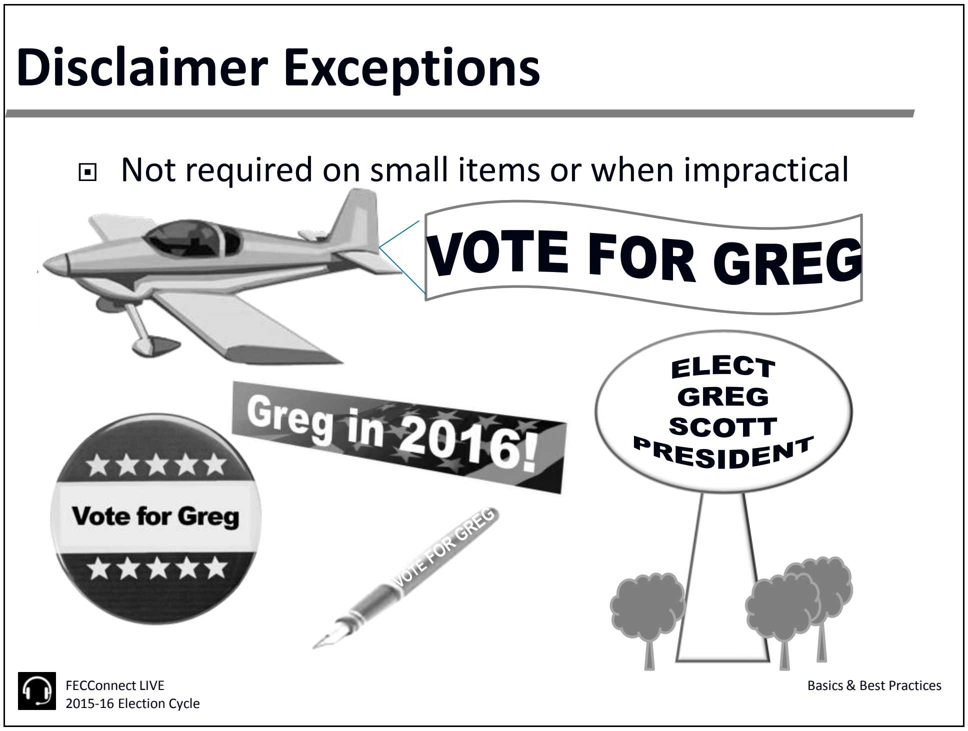
The disclaimer must clearly state that the communication has been paid for by such other person and has been authorized by the candidate. 11 CFR 110.11(b)(2).

2. For a communication that has not been authorized by a candidate:

The disclaimer must clearly state the full name and contact information – permanent street address, phone number, or website address – of the person or committee who paid for the communication, and state that it was not authorized by any candidate or candidate's committee. 11 CFR 110.11(b)(3).

3. If TV or radio:

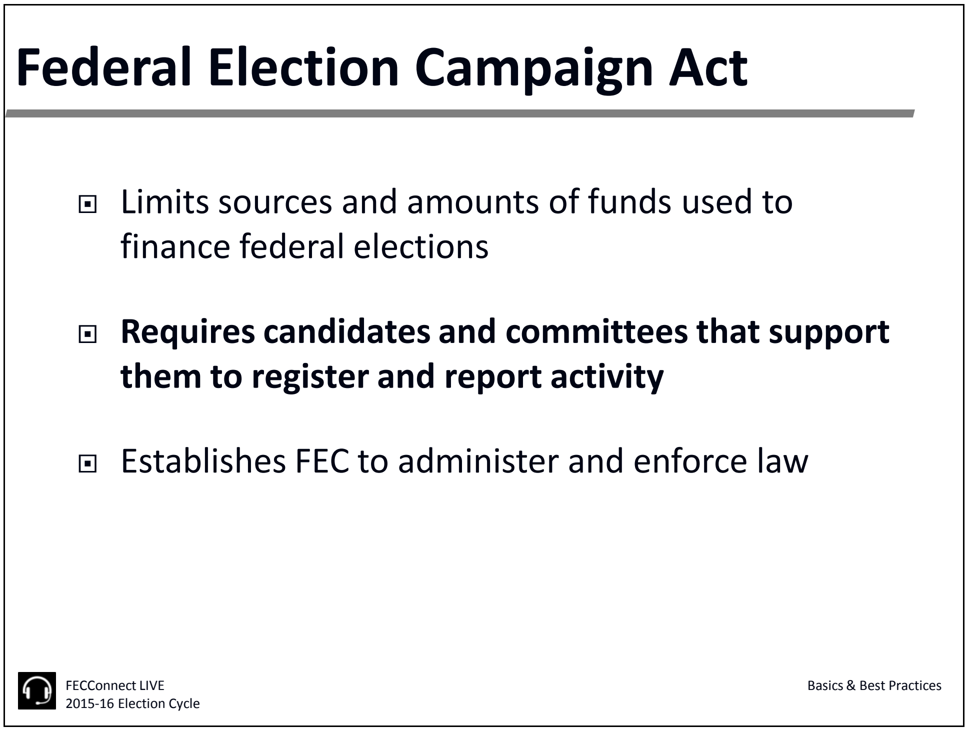
The advertisement must identify the committee responsible for the communication (e.g., *"The New York State Party is responsible for the content of this advertising."*), following the guidelines used by candidates.

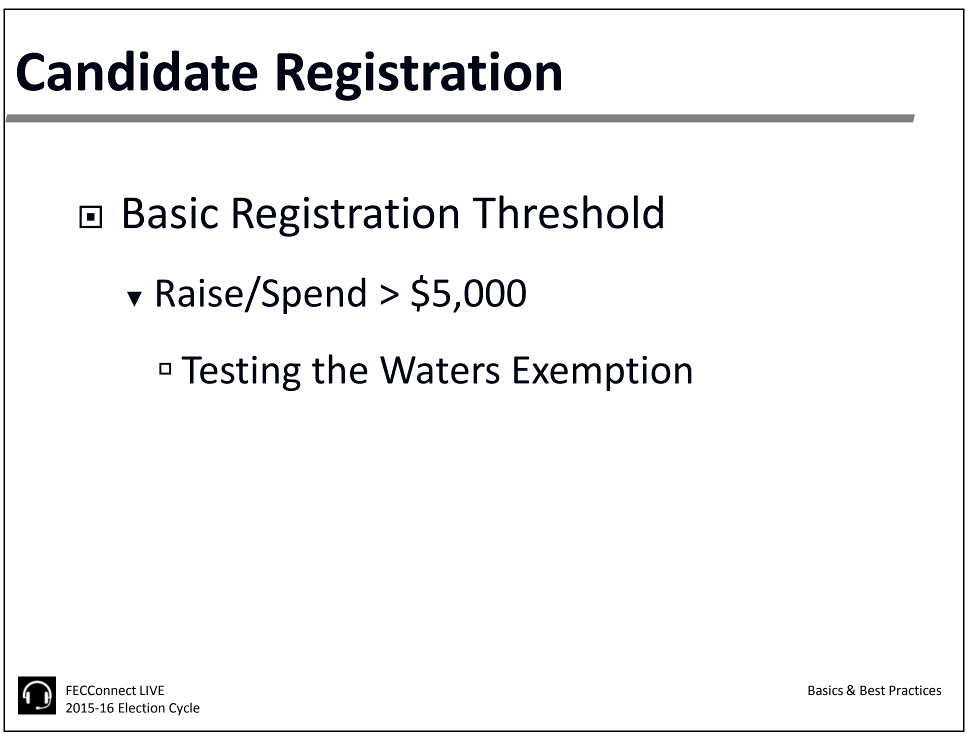


H. Disclaimer is Not Required When:

1. It cannot be conveniently printed (e.g., pens, bumper stickers, campaign pins and buttons);
2. Its display is not practical (e.g., wearing apparel, skywriting, water towers); or
3. Item is of minimal value, does not contain a political message and is used for administrative purposes (e.g., committee checks and receipts).

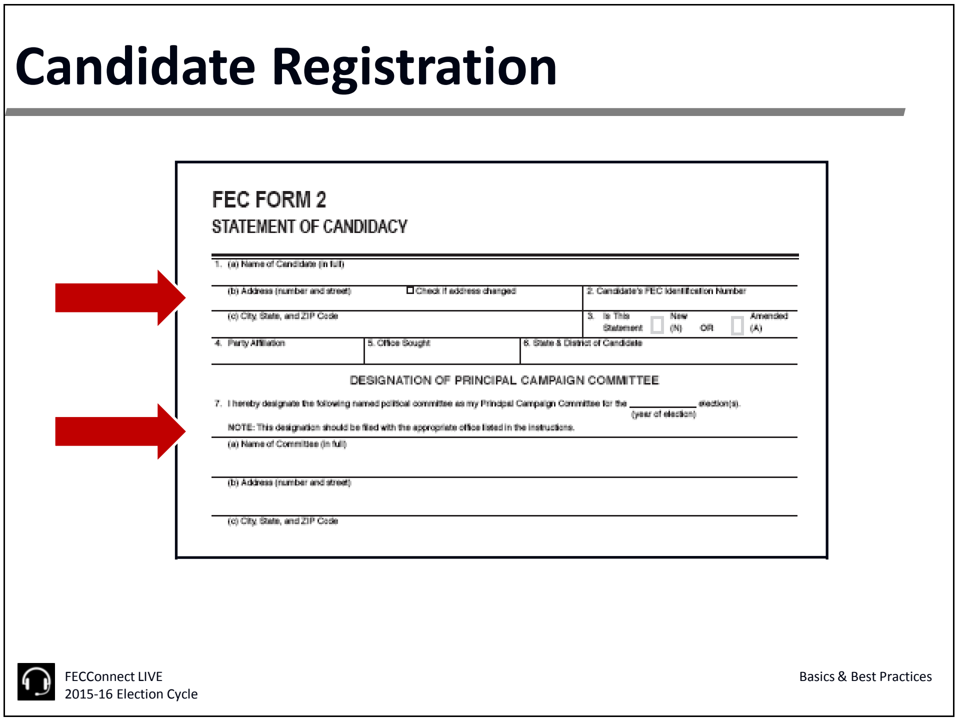
PART 2: REGISTRATION AND REPORTING REQUIREMENTS





I. Candidate Registration (11 CFR 101.1)

FEC Form 2 (Statement of Candidacy) - Individual files Form 2 within 15 days of triggering candidacy (i.e., raise/spend over $5,000).



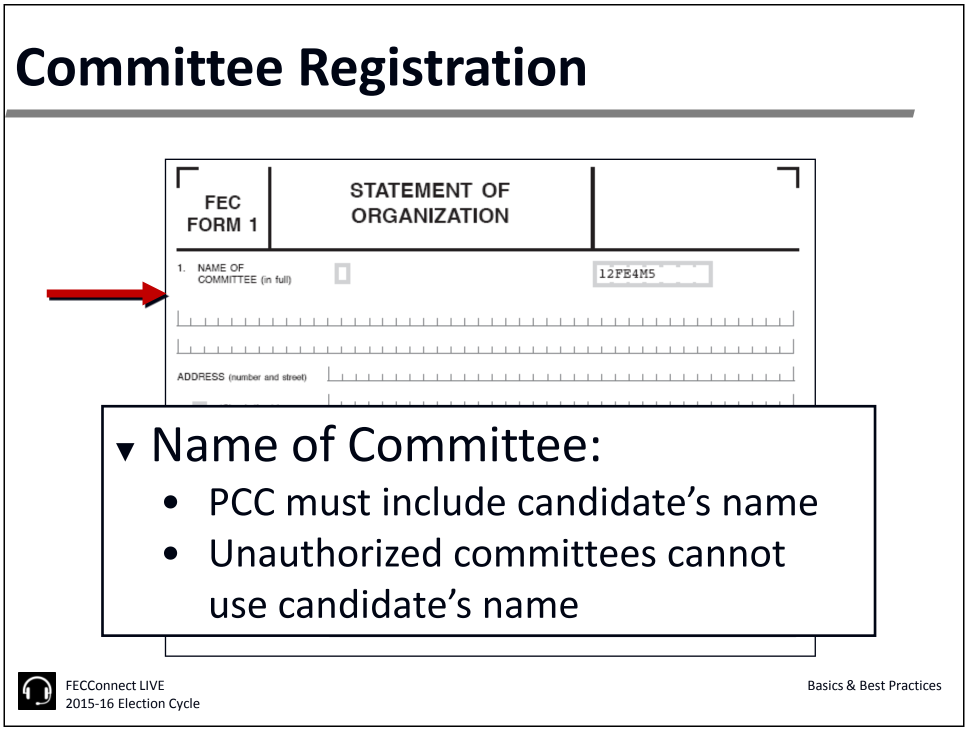
II. Committee Registration - FEC Form 1 (Statement of Organization) (11 CFR 102.1(c) and 102.2)

A. When to File

1. Principal Campaign Committees file within 10 days of designation by candidate on Statement of Candidacy (FEC Form 2).
2. **Requirements**
   Committees that file electronically must include their email address. Others are encouraged to do so.
3. **Amendments**
   Amend Statement of Organization (and other filings) when necessary within 10 days of change.

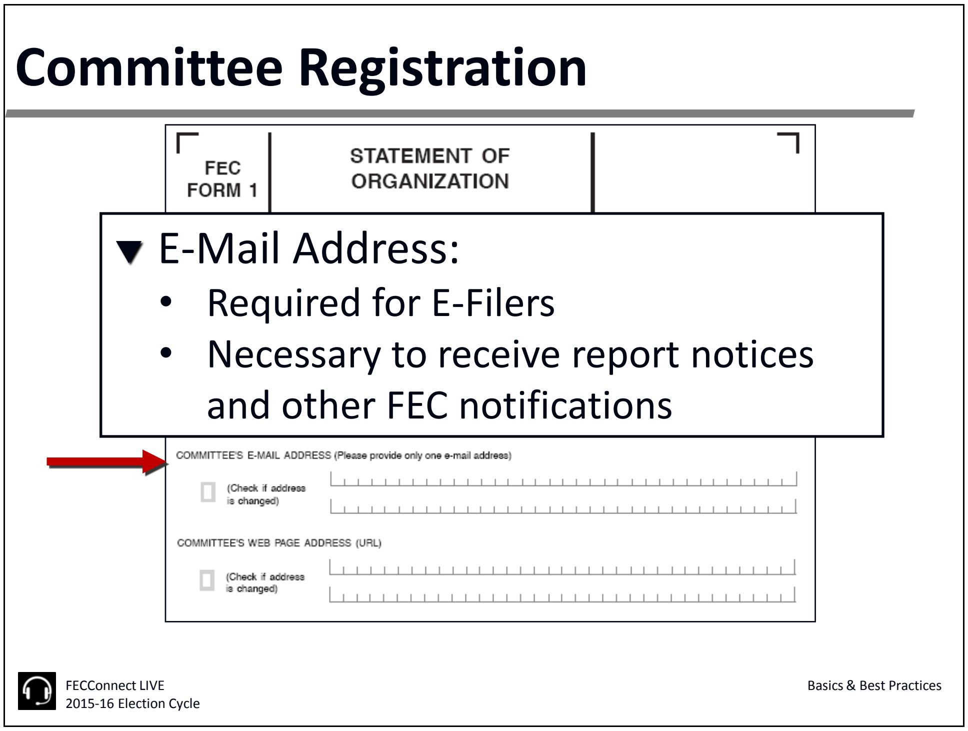
B. How to File

1. **Access to Form 1**
   a) Forms may be downloaded and printed from the FEC website: http://www.fec.gov/info/forms.shtml
   b) Link to Form 1 webform: https://webforms.fec.gov/webforms/form1/index.htm
2. **Requirements**
   Committees that file electronically must include their email address. Others are encouraged to do so.
3. **Amendments**
   Amend Statement of Organization (and other filings) when necessary within 10 days of change.



C. Name and Address of Committee

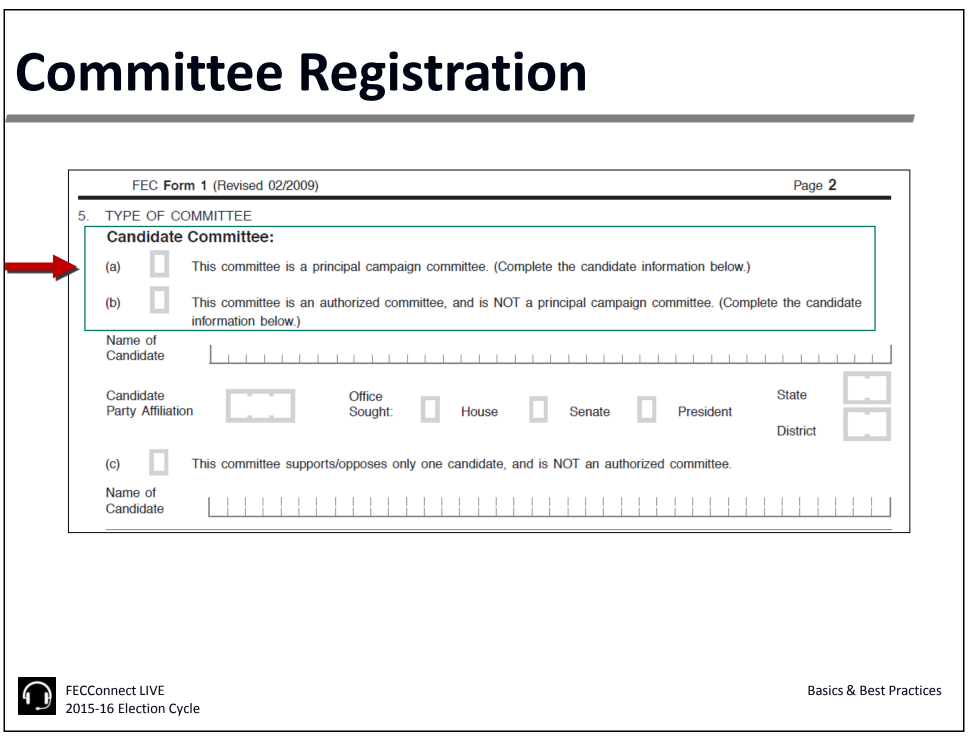
1. **Principal Campaign Committee and Authorized Committees**
   Name must include name of the candidate.
2. **Use Committee's Official Name on:**
   a) FEC reports and statements.
   b) Disclaimer notices for public advertising.



3. Street Address, Email, Website

a) Email required for electronic filers; necessary to receive FEC report notices and other courtesy materials.

b) URL required if committee has web page.



Committee Registration

List Joint Fundraising Representative

Committee that collects receipts, pays bills and distributes proceeds for joint fundraising effort

6. Name of Any Connected Organization, Affiliated Committee, Joint Fundraising Representative, or Leadership PAC Sponsor

Mailing Address

CITY STATE ZIP CODE

Relationship: Connected Organization Affiliated Committee Joint Fundraising Representative Leadership PAC Sponsor

JFR Committee Registration

Joint Fundraising Representative can be a participating committee or new committee

Joint Fundraising Representative:

(g) X This committee collects contributions, pays fundraising expenses and disburses net proceeds for two or more political committees/organizations, at least one of which is an authorized committee of a federal candidate.

(h) This committee collects contributions, pays fundraising expenses and disburses net proceeds for two or more political committees/organizations, none of which is an authorized committee of a federal candidate.

Committees Participating in Joint Fundraiser

1. Jane Doe for Congress FEC ID number C 00000001
2. Catatonic State Party Committee FEC ID number C 00000002
3. FEC ID number C
4. FEC ID number C

D. Leadership PAC – 11 CFR 100.5(e)(6) and (g)(5)

1. Definition of Leadership PAC

a) Political committee directly or indirectly established, financed, maintained or controlled by federal candidate/officeholder but is:

(1) Not an authorized committee;

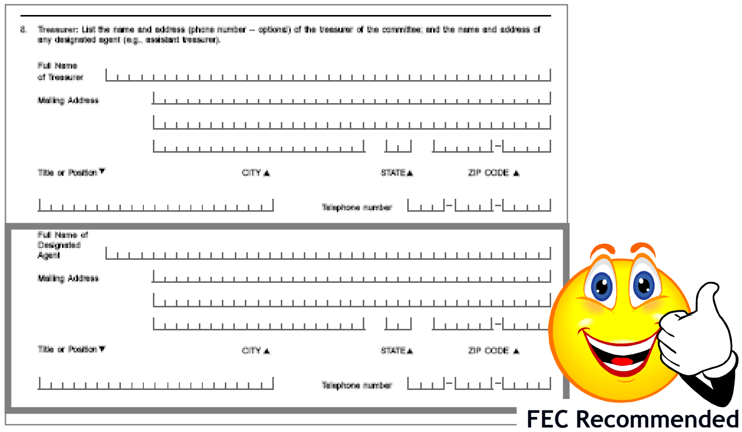
(2) Not affiliated with an authorized committee; and

(3) Not a political party committee.

b) Treated as nonconnected PAC.

Committee Registration

Treasurer & Assistant Treasurer



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Basics & Best Practices

Committee Registration

- Treasurer & Assistant Treasurer
  - Deposits receipts
  - Authorizes all expenditures
  - Monitors contributions
  - Keeps all required records
  - Signs reports
  - Files accurate reports on time

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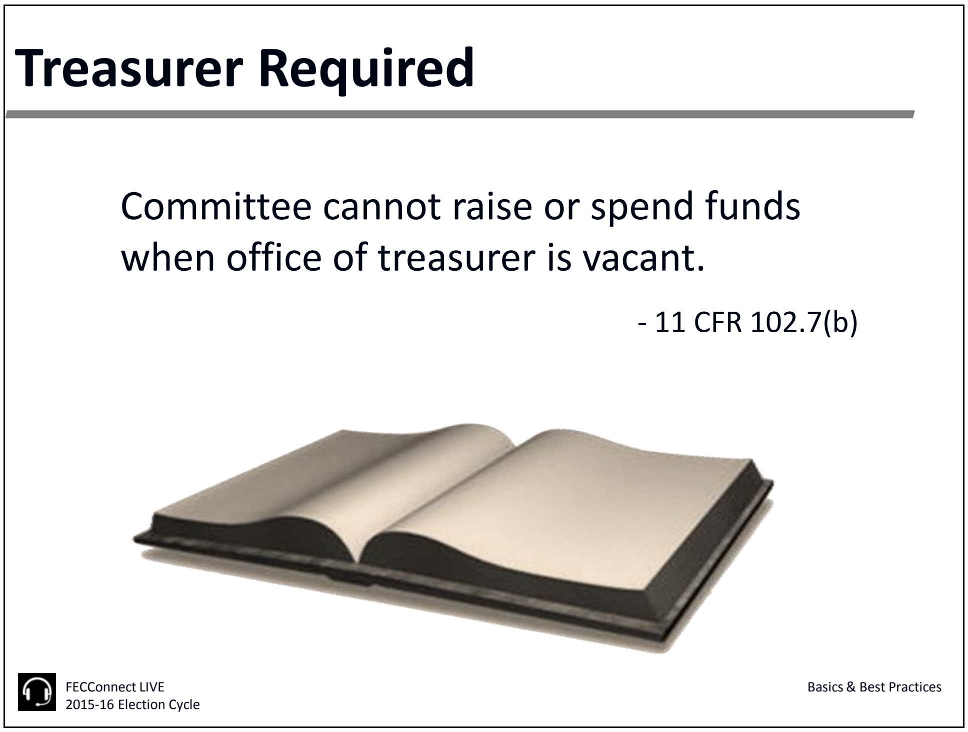
E. Treasurer & Assistant Treasurer (11 CFR 102.7, 102.9 and 104.14)

1. Treasurer Required – Asst. Treasurer Recommended

a) Identify on Form 1.

2. Duties:

a) Depositing receipts.
b) Authorizing all expenditures.
c) Monitoring contributions.
d) Keeping all required records.
e) Signing reports.
f) Filing accurate reports on time.



Treasurer's Liability

- Treasurer generally named as enforcement respondent in official capacity
- Personal liability possible if:
  - Knowingly & willfully violated the Act;
  - Recklessly failed to fulfill duties; or
  - Intentionally ignored information that led to the violation

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3. Treasurer Responsible for Compliance.

a) Usually named in enforcement actions.

b) Policy statement on when treasurer may be found personally liable (online at http://www.fec.gov/law/policy/2004/notice2004-20.pdf)

c) Embezzlement policy (online at http://www.fec.gov/law/policy/embezzlepolicy.pdf)

Objectives

- Review Basic Provisions of FECA
- **Examine Recordkeeping and Filing Requirements**
- Recommend “Best Practices”
- Highlight Compliance Resources

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Basics & Best Practices

Recordkeeping

Contributions over $50, record:

- Amount
- Date received
- Donor’s name and address
- Full-size photocopy or digital image of check

Contributions aggregate over $200, record:

- Above information plus occupation and employer for individual donors

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F. Recordkeeping (11 CFR 102.8 and 102.9)

1. For Receipts

a) For any amount, need date received and amount.
b) Over $50, name and address of contributor/payor.
c) Over $200, above plus occupation and employer.

Recordkeeping – Best Efforts

Campaign committees must make “best efforts” to obtain, maintain and report the name, address, occupation and employer of each contributor who gives more than $200 in an election cycle.

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Basics & Best Practices

Recordkeeping – Best Efforts

- ✓ Request contributor information when soliciting contribution
- ✓ If information is missing, make follow-up request within 30 days
- ✓ Amend report to disclose missing information once received

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2015-16 Election Cycle

Basics & Best Practices

2. **Best Efforts (11 CFR 104.7)**
   a) Required to make “best efforts” to obtain, maintain and report required information.

b) To show "best efforts," committee must:
   (1) Request information in solicitation materials, along with applicable disclaimer informing contributors that information is required under federal law;
   (2) Make follow-up request within 30 days of receipt of contributions lacking required information, keep written documentation of follow-up request (with no additional solicitation made); and
   (3) Amend reports to disclose information received but not previously disclosed (or include information in memo reports on the next report filed).

c) See Campaign Guide and http://www.fec.gov/rad/candidates/FEC-ReportsAnalysisDivisionCandidateCommittees.shtml#bestefforts

Recordkeeping

All disbursements, record:

- Amount
- Date
- Name and Address of Payee
- Purpose of Disbursement

For contributions:

- Above information, plus name of candidate, state, district and election designation

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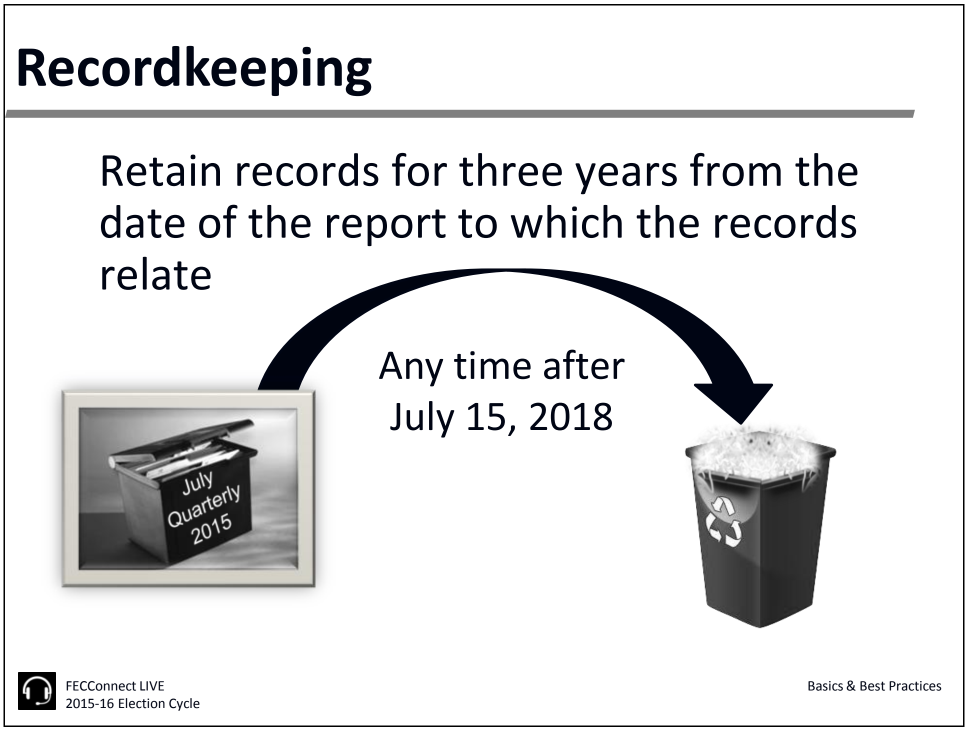
Basics & Best Practices

3. For Disbursements

a) For any amount, need name of payee, address, purpose, date made.

b) For contributions made, also need name of candidate, state, district, and election designation.

c) See Commission-approved lists of adequate and inadequate purposes at http://www.fec.gov/rad/candidates/FEC-ReportsAnalysisDivision-CandidateCommittees.shtml#adequatepurpose



4. **Record Retention**
Retain each record for three years from the date of the report on which it was last disclosed.

Filing Requirements & Best Practices

Rebecca Hough
Asst. Branch Chief
Authorized Branch
Reports Analysis Division

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Basics & Best Practices

III. Filing Dates (11 CFR 104.5(c))

2015 Filing Requirements

- Campaign Committees file FEC Form 3
  - Quarterly Schedule

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Basics & Best Practices

Quarterly Schedule - 2015

Report Type	Coverage and Due Dates
April Quarterly	Covers 1/1 - 3/31; Due 4/15/15
July Quarterly	Covers 4/1 - 6/30; Due 7/15/15
October Quarterly	Covers 7/1 - 9/30; Due 10/15/15
Year-End	Covers 10/1 – 12/31/15; Due 1/31/16

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Basics & Best Practices

A. During Non-Election Year (odd-numbered year) Congressional Candidates File Quarterly

1. Reporting period always begins the day after close of books of last report filed.
2. *Reports Due in 2015* at http://www.fec.gov/info/report_dates_2015.shtml

Special Elections 2015

- May trigger additional reports for quarterly filers that participate
- Visit FEC.gov for details http://www.fec.gov/info/report_dates.shtml

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2015-16 Election Cycle

Basics & Best Practices

Quarterly Filers - 2016

Report Type	Coverage and Due Dates
April Quarterly	Covers 1/1 - 3/31; Due 4/15/16
Pre-Primary and Pre-Runoff reports - see next slide	
July Quarterly	Covers 4/1 - 6/30; Due 7/15/16
October Quarterly	Covers 7/1 - 9/30; Due 10/15/16
Pre-Election	Covers 1st day of current period to 20 days before election; Due 12 days before election (12G covers 10/1 - 10/19; Due 10/27/16)
Post-General	Covers from 1st day of period to 11/28; Due 12/8/16
Year-End	Covers 11/29 - 12/31/16; Due 1/31/17

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Basics & Best Practices

B. During Election Year (even-numbered year) Congressional Candidates File Quarterly

1. Quarterly reports due April 15, July 15 and October 15 and January 31; Pre- Primary, Pre- and Post-General (if applicable)
2. Reporting period begins the day after close of books of last report filed.

Quarterly Filers - 2016

Pre-Primary and Pre-Runoff Reports

- Due 12 days before candidate's primary (and runoff, if held).
- Covers period from close of books of last report through 20 days before primary (or runoff).

48-Hour Notices

- Reports of "last minute" contributions and/or loans of $1,000 or more received < 20 days but > 48 hours before primary, runoff and/or general election.
- Due within 48 hours of receipt of $.

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Basics & Best Practices

3. 48 Hour Notices:

48-Hour Notices are reports of "last minute" contributions and/or loans of $1,000 or more received less than 20 days but more than 48 hours before the day of any election in which the candidate is running.

a) The 48-Hour Notice must be filed within 48 hours of the campaign's receipt of the contribution/loan.

b) In addition to filing the 48-Hour Notices, committees must itemize all last-minute contributions in their next scheduled report .

c) More information: http://www.fec.gov/rad/candidates/FEC-ReportsAnalysisDivision-CandidateCommittees.shtml#fortyeighthours

4. Bookmark These Web Pages:

- Compliance Map: http://www.fec.gov/info/ElectionDate/
- Filing Dates: http://www.fec.gov/info/report_dates.shtml

IV. Where to File FEC Financial Reports (11 CFR 108.4)

Where to File: House/Presidential

Federal Election Commission
999 E Street, NW
Washington, DC 20463

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Basics & Best Practices

Where to File: Senate Campaigns

Office of Public Records
P.O. Box 77578
Washington, DC 20013-7578

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Basics & Best Practices

Filing on Time

- No Extensions
  - Filing dates not extended for weekends or holidays.
  - Must be received on business day preceding filing date.
- Registered/Certified vs. Overnight Mail
  - If filing using USPS registered/certified mail, keep receipt.
  - "Overnight Mail" means next-day express or priority mail with delivery confirmation or overnight service with an online tracking system. Same terms as registered/certified mail. (Keep receipt/tracking number.)

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Basics & Best Practices

Administrative Fine Program

- Civil money penalties for filing late, or not filing at all
- Fine amount based on various factors, including proximity to election, previous late reports and financial activity
- Reviewing officer handles appeals

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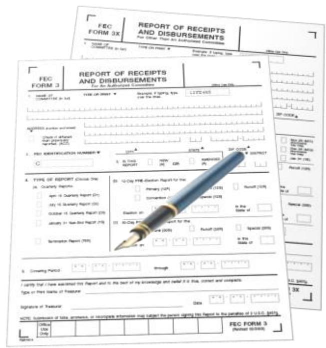
Basics & Best Practices

More Information on Administrative Fines:

- Program page: http://www.fec.gov/af/af.shtml
- Fine Calculator: http://www.fec.gov/af/af_calc.shtml

How to File FEC Reports

On Paper



Electronically*

* Senate campaigns may voluntarily submit an unofficial electronic copy of their reports to the FEC, but their official filings must be filed on paper with the Secretary of the Senate.

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2015-16 Election Cycle

Basics & Best Practices

IV. Other Filing Issues

Mandatory Electronic Filing

If your committee raises or spends **more** than $50,000 during a calendar year, or expects to do so . . . → YES → Mandatory Electronic Filing

If your committee raises or spends $50,000 or **less** during a calendar year, and does **not** expect to exceed that threshold . . . → NO → Paper Filing / Voluntary Electronic Filing

* Senate campaigns may voluntarily submit an unofficial electronic copy of their reports to the FEC, but their official filings must be filed on paper with the Secretary of the Senate.

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2015-16 Election Cycle

Basics & Best Practices

A. Electronic Filing (11 CFR 104.18)
Mandatory for: Presidential and House Campaigns, PACs and Party Committees that raise or spend more than $50,000 in calendar year or have reason to expect to do so.

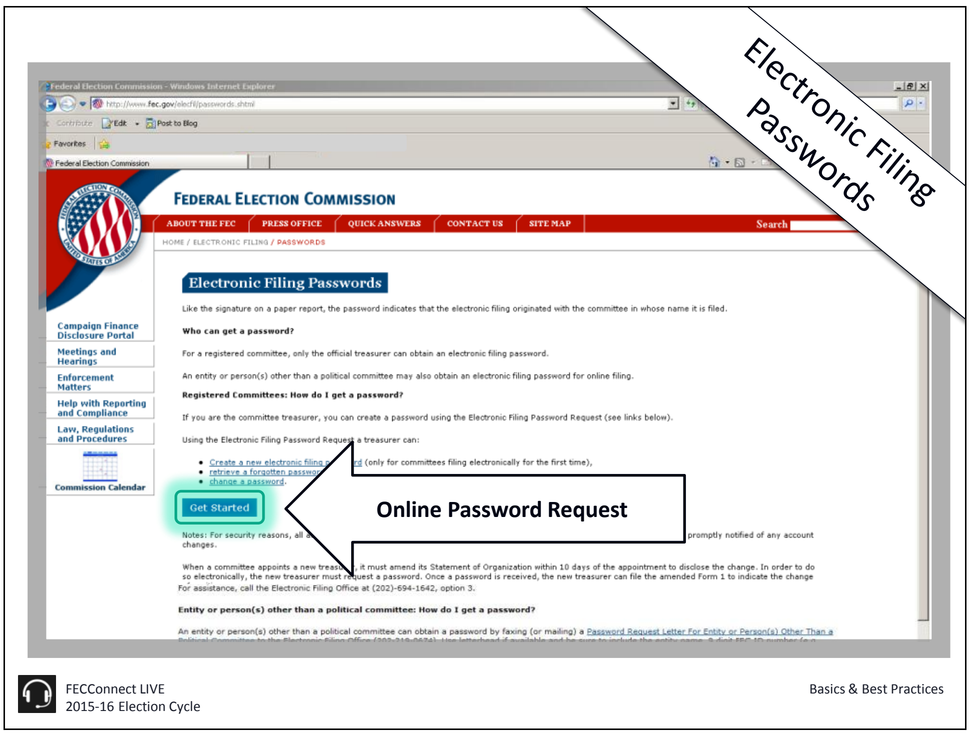
B. Voluntary for All Other Filers

1. Senate Campaigns
Must file paper copy of report with Secretary of Senate (statutory requirement).

2. Passwords

a) Required
Before you can electronically file your report, you will have to obtain a password. You cannot file without one.

b) Who Can Get a Password?
For registered committees, only the official treasurer can obtain an electronic filing password. It is important that the committee has provided a valid email address on its Statement of Organization, as a validation email will be sent to the Committee.



c) How Do You Get a Password?
(1) Most committees may obtain or change their password online at http://www.fec.gov/elecfil/passwords.shtml

(2) Existing committees that have not previously used the online system should contact the Electronic Filing Office at 202-694-1307.

3. **Use Updated Software**
   a) Software revised when forms changed – always use the latest version. Auto update feature makes it simple.
   b) Download FECFile: http://www.fec.gov/elecfil/updatelist.html.
4. **Paper Filing by E-Filer**
   Committees that submit a report on paper that should have been filing electronically will be treated as non-filers and may be subject to enforcement actions (including Administrative Fines).
5. **For more information:** http://www.fec.gov/elecfil/electron.shtml.

C. **Other Reporting Considerations for Paper Filers**

1. **Statute Prohibits Extensions** (Applicable to Paper and Electronic Filers)**.**
2. **Weekends and Holidays.** Filing dates not extended for weekends or holidays. Must be received on business day preceding filing date.
3. **Registered vs. Overnight Mail**
   a) If filing using USPS registered mail, keep receipt.
   b) "Overnight Mail" means express or priority mail with a delivery confirmation or an overnight service with an online tracking system. File using same terms as certified/registered mail. (Keep receipt.)

PART 3: BEST PRACTICES FOR FILING

Objectives

- Review Basic Provisions of FECA
- Examine Recordkeeping and Filing Requirements
- **Recommend "Best Practices"**
- Highlight Compliance Resources

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2015-16 Election Cycle

Basics & Best Practices

Best Practices: Filing

- ✓ Ensure your staff and vendors understand filing rules and deadlines
- ✓ Update your software regularly
- ✓ Have a current email address on Form 1 to receive courtesy email reminders
- ✓ Respond to RFAIs in a timely manner

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2015-16 Election Cycle

Basics & Best Practices

Review and Referral Policy

- Categories of review include:
  - Mathematical discrepancies
  - Failure to provide supporting schedules
  - Failure to properly itemize contributions from individuals
  - Prohibited, excessive and impermissible contributions
  - Improper itemization of disbursements
- RFAI threshold
- Thresholds are confidential and policy is approved by the Commission

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2015-16 Election Cycle

Basics & Best Practices

I. RAD Review of Reports

A. RAD Review and Referral Policy

1. Internal policy contains categories of review the analyst checks, such as: Prohibited, Excessive and Impermissible Contributions, Mathematical Discrepancies, Failure to Provide Supporting Schedules and Failure to Properly Itemize Contributions from Individuals and Disbursements, to name a few.
2. Policy has established thresholds for making determinations on whether to send a Request for Additional Information (RFAI).
3. Thresholds are confidential and policy is approved by the Commission. A redacted version of the RAD Review and Referral Policy can be found on the RAD web page.

Review of Reports

- Thresholds are applied on a <u>per report basis</u>.
  - If reoccurring reporting issues exist on multiple reports, committee may receive multiple RFAIs on same issue
  - RAD does not consider previous responses to RFAIs, except responses apply for the two year election cycle for:
    - Best efforts procedures; and
    - Foreign address inquiries that indicate safe harbor guidelines are followed for **<u>all</u>** contributions
- It's possible to see an issue questioned on one report, but not on another

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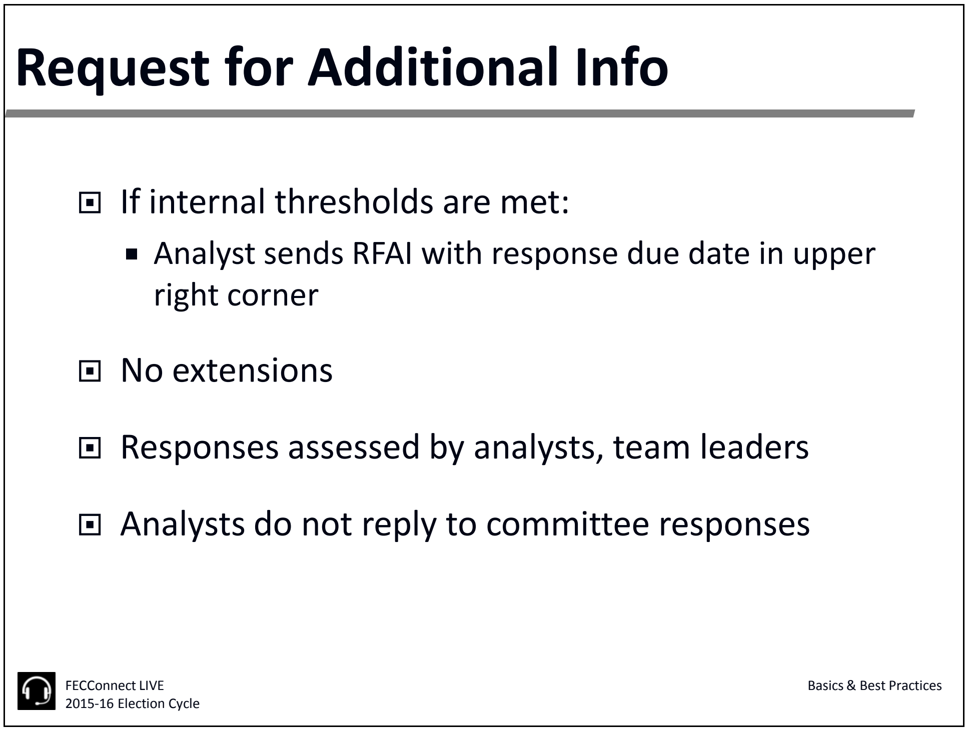
2015-16 Election Cycle

Basics & Best Practices

4. Review is conducted on a <u>per report basis</u>, meaning the thresholds are applied to each report reviewed.
   a) This means a committee may receive a RFAI which includes the same issue already addressed in response to a RFAI referencing a different report.
      - Exceptions include outlining Best Efforts procedures which would apply to the two-year cycle, and responses relating to foreign address inquiries that indicate safe harbor guidelines are followed for **<u>all</u>** contributions apply for the two year election cycle.

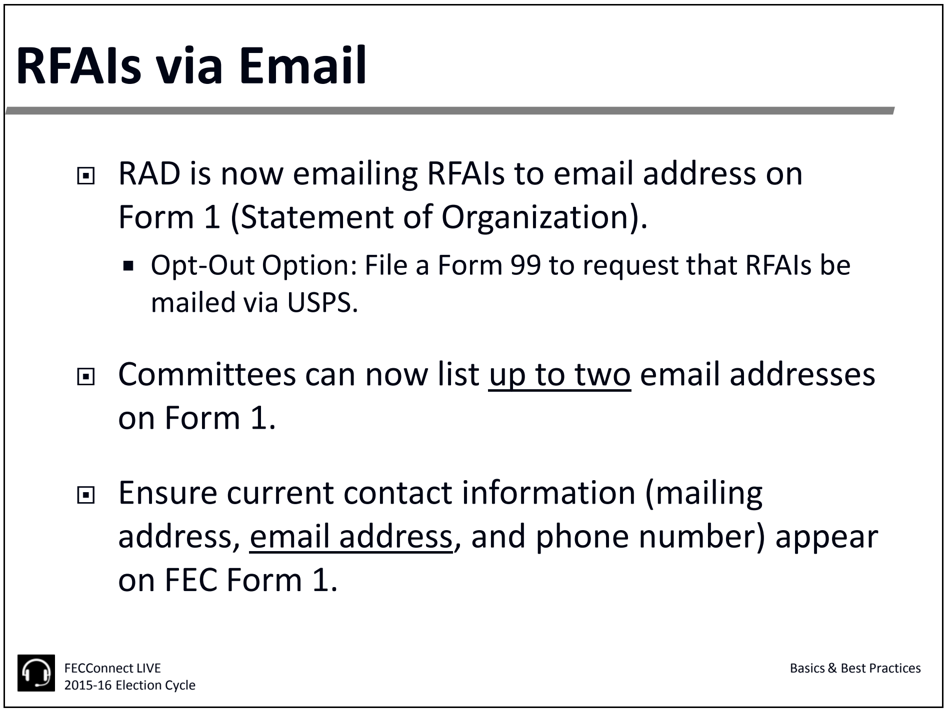
   b) There may be several issues that are aggregated together to meet a single threshold, so it's possible to see an issue questioned on one report that isn't included in an RFAI on for another report**.**
5. Policy is reassessed every election cycle and revisions/changes made based on input from RAD and other offices (such as OGC), and Commissioners.



II. Request for Additional Information (RFAI)

A. If internal thresholds are met, an RFAI is sent.

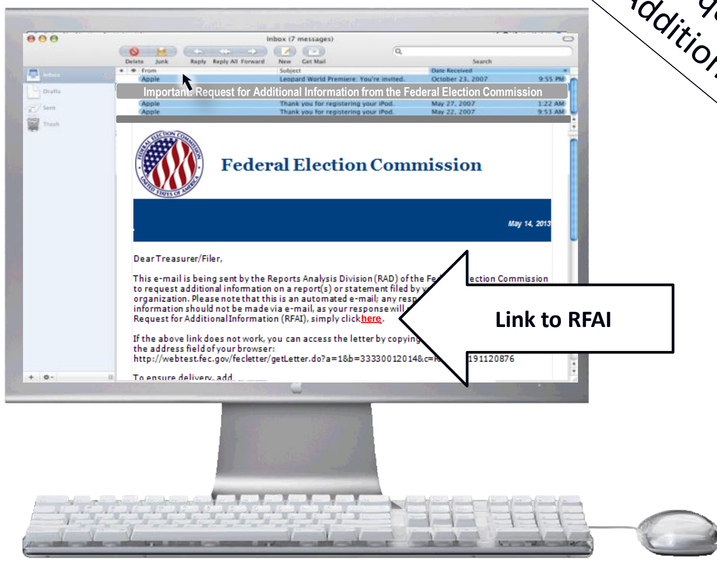
1. RFAI has a "Response Due Date" in the upper right hand corner of the letter, extensions are not granted. The committee analyst's name and contact telephone number are also provided in the letter.
2. **Tip:** You can find out who your analyst is by visiting: http://www.fec.gov/rad/index.shtml



B. RFAI via email

1. Most RFAIs are now sent via email to the Committee’s official email address, as disclosed on the Statement of Organization (FEC Form 1).
2. Up to two email addresses can now be provided (both will be used for emailing RFAIs.
3. Committees may opt out and receive RFAIs on paper through the mail.

Request for Additional Info



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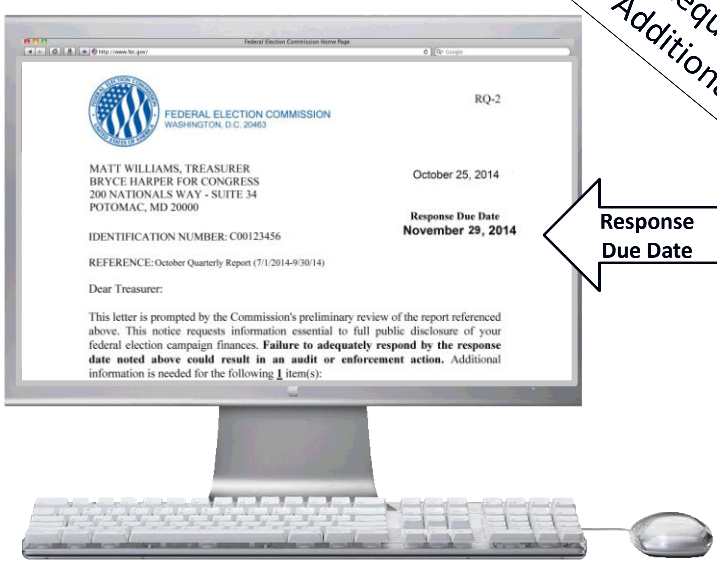
Basics & Best Practices

Request for Additional Info



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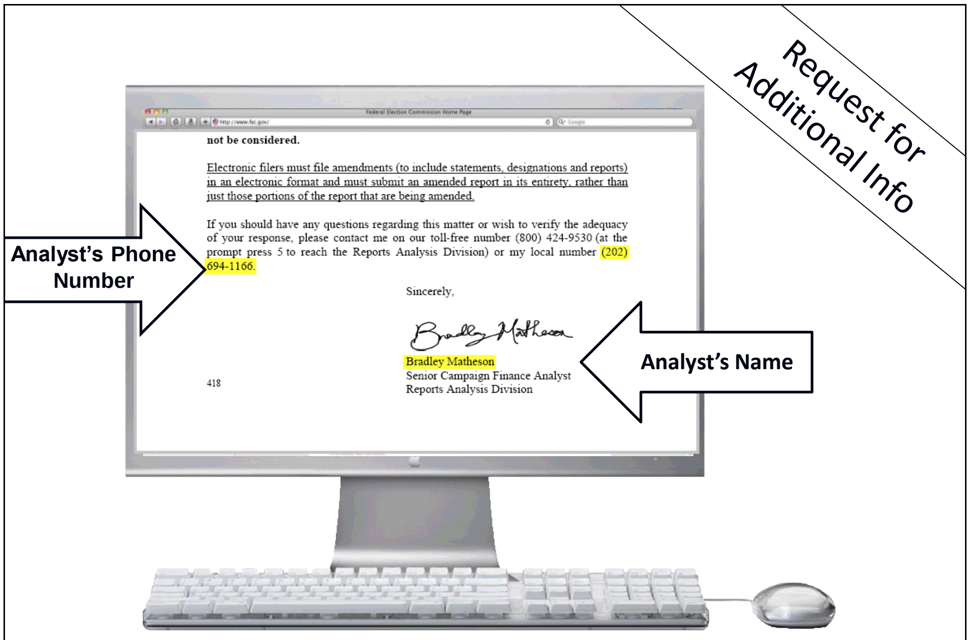
Basics & Best Practices



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Basics & Best Practices

Responding to RFAIs

- Analysts do not contact committees in every case when a response is not sufficient
- Committee should contact its analyst before and/or after filing a response
- Analysts do not make legal conclusions
- Analysts cannot categorize your activity
- In some cases, RAD consults OGC before sending an RFAI and when assessing a committee's response

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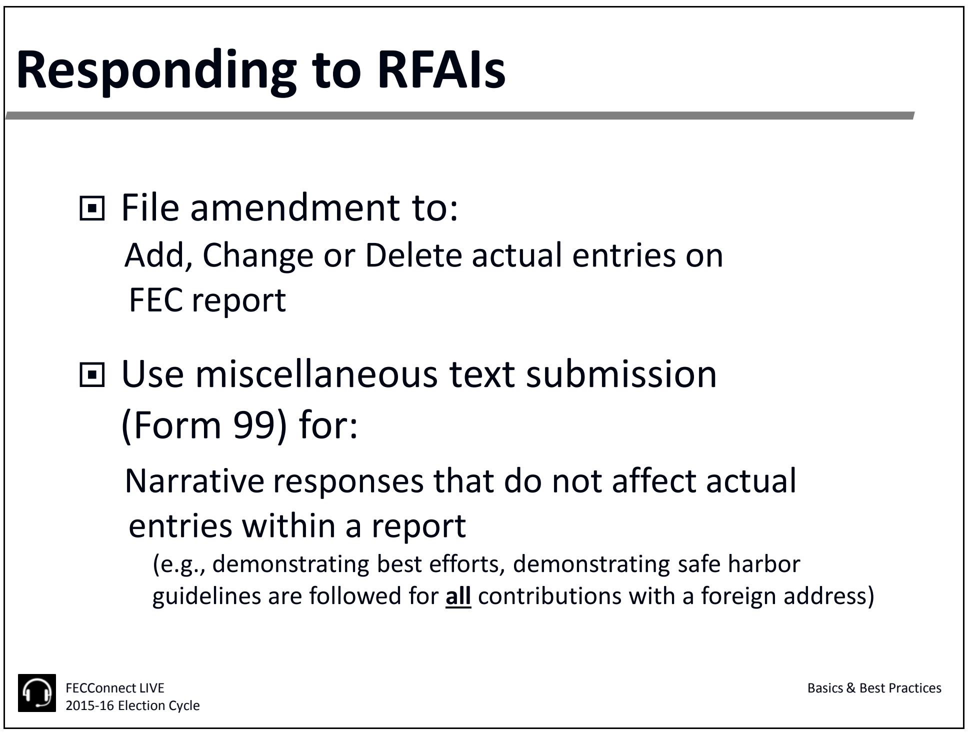
2015-16 Election Cycle

Basics & Best Practices

C. Responses are assessed by the analysts and in some cases, team leaders.

1. Analysts do not reply to responses.
2. Contact is not made with committees in every case when a response is not sufficient. Further explanation below.

3. Committees are encouraged to contact their assigned analyst prior to responding if unsure about how to respond or after a response is filed to ensure an adequate response is received.
4. Keep in mind that analysts can't make legal conclusions or give guidance on a legal conclusion being made by a committee. In addition, they cannot determine what category your activity falls under (i.e., independent expenditures or coordinated party expenditures).
5. In some cases, RAD consults with OGC before sending a RFAI and when making a response assessment.



D. Must amend report when changing information that affects entries on a report.

This would include additions, changes or deletions.

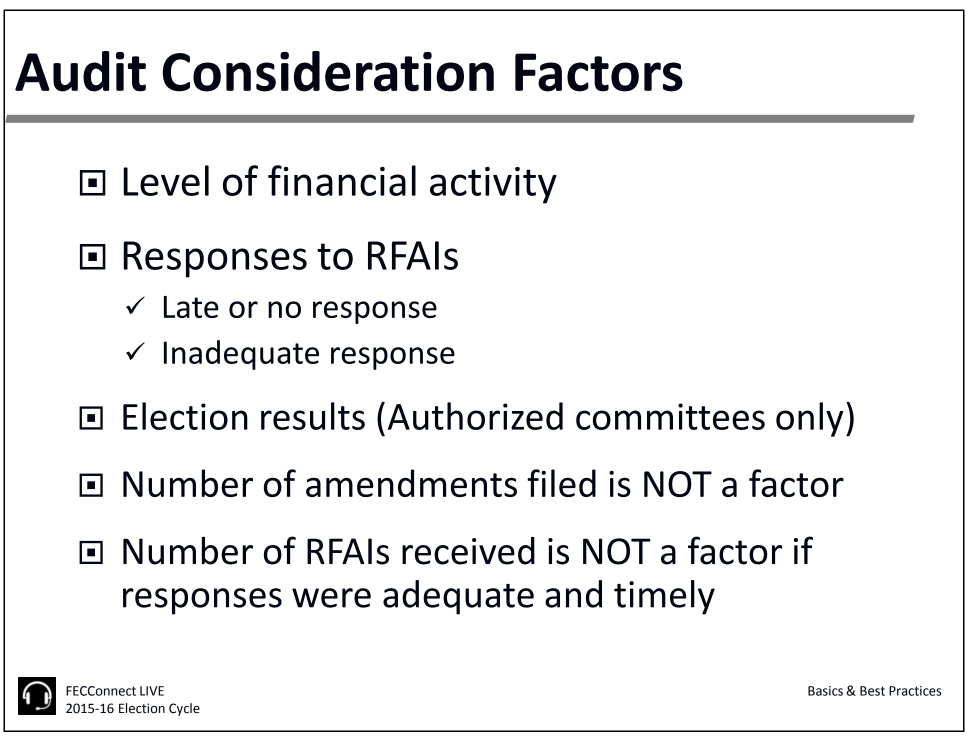
E. Filing Amendments Required For:

1. **Errors**
   Committee discovers that an earlier report contained erroneous information or mathematical errors.
2. **Disclosure of Late Information**
   Committee obtains required reporting information concerning a particular transaction after the transaction has been reported.

3. **Response to Request for Additional Information (RFAI)**
FEC sends letter (email) and requests amendment. Response due date appears in upper right corner of RFAI.

4. **Procedures for Filing Amendments:**
   a) **Paper Filers**
      (1) It is not necessary to resubmit the entire report.
      (2) Complete the signature page of the Summary Page, checking box indicating that it is an amended report.
      (3) Attach corrected schedules, if necessary.
      (4) Attach cover letter explaining change (recommended).
   b) **Electronic Filers**
      (1) Must submit amendments in electronic format (if original was filed electronically).
      (2) Amendment must include complete report (as opposed to just the portion requiring an amendment).

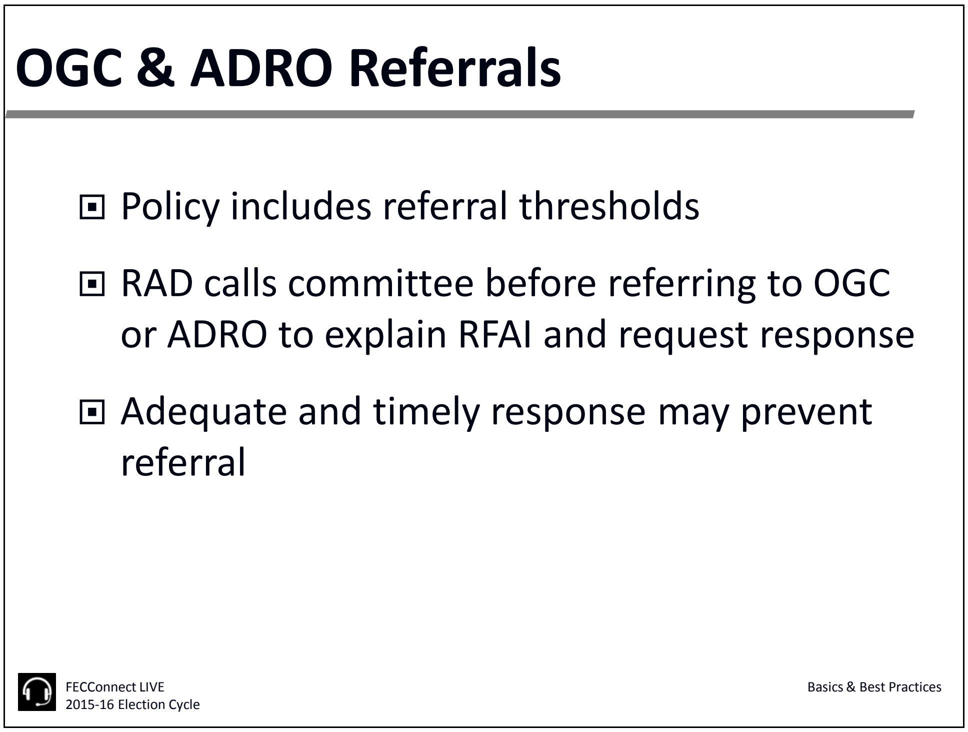
F. **Miscellaneous Text Submission (Form 99)**
Used for narrative responses that do not affect actual entries within a report. (For example, when outlining procedures for "Best Efforts" in obtaining contributor information.)



G. **Referrals to the Audit Division**
1. **Factors for making referrals to the Audit Division**
   a) Level of financial activity;

b) Responses to RFAIs:
   (1) Late or no response,
   (2) Inadequate response.
c) Election results (Authorized committees only).

2. **The number of amendments filed is not a factor.**
3. **The number of RFAIs is not a factor** if responded to adequately and on time.



H. Referrals to OGC (Office of General Counsel) and ADRO (Alternative Dispute Resolution Office)

1. Internal policy includes thresholds for determining whether a matter should be referred to OGC or ADRO.
2. Committee will receive a phone call from RAD prior to a referral to ADRO or OGC to explain RFAI and request a response.
3. An adequate response is required by the timeframe given to prevent the matter from being referred.

III. Recommended Internal Controls

Internal Controls

- A process designed to ensure:
  - Effective and efficient operations
  - Reliable financial reporting
  - Compliance with laws and regulations
  - Protection of the organization's assets
- Formalize in writing
- Educate Staff
- Verify that professional compliance firms use internal controls and best practices

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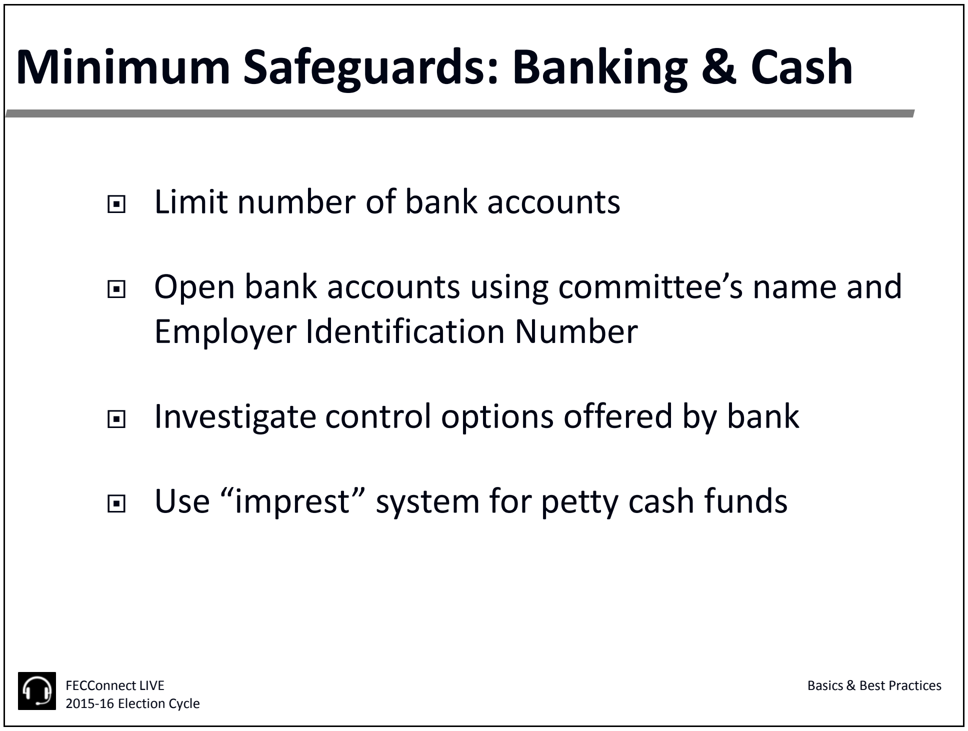
2015-16 Election Cycle

Basics & Best Practices

A. Internal Committee Controls

1. Internal controls are processes designed to ensure that an organization's goals are met with respect to:
   - Effective and efficient operations
   - Reliable financial reporting
   - Compliance with laws and regulations; and
   - Protection of the organization's assets.
2. Formalize policies in writing
3. Educate committee staff on policies and procedures
4. Verify that professional compliance firms use internal controls and best practices consistent with FEC resources.



B. Minimum Safeguards: Banking and Cash

1. Limit the number of committee bank accounts to those absolutely required to manage the committee's business.
2. Open bank committee bank accounts using the name of the committee and the Employer Identification Number (EIN) rather than in the name of a person.
3. Investigate control options offered by the committee's bank. For example, banks may be able to screen checks drawn on committee accounts during their processing for compliance with agreed-upon criteria.
4. Use an "imprest" system for petty cash funds. The imprest fund involves replenishing petty cash only when properly-approved vouchers and /or petty cash log entries are presented justifying all expenditures. The amount of the replenishment is equal to the difference between the stated amount of the fund and the remaining balance. For accountability, only one person should be in charge of the fund. A petty cash fund of not more than $500 should be adequate in most cases. No cash disbursements in excess of $100 are permitted.

Minimum Safeguards: Separating Duties

- Authorize checks **>** $1,000 in writing or require two signatures for them
- Place an individual who does not have banking authority in charge of receiving incoming checks and monitoring receipts
- Review and reconcile bank statements each month and to reports prior to filing
  - Done by someone other than person handling the committee's accounting

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Basics & Best Practices

C. Minimum Safeguards: Separating Duties

1. Treasurer should authorize checks in excess of $1,000 or require two signatures for them. Place an individual who does not have banking authority in charge of receiving incoming checks and monitoring receipts.
2. Make a list of receipts when the mail is opened. Person opening the mail and preparing list of receipts should be independent of the accounting function.
3. Review transactions on bank statements and reconcile the statements to the accounting records each month in a timely manner. Prior to filing each FEC report, someone other than a check-signer or person handling the committee's accounting should reconcile the bank and accounting records and the disclosure reports.

Additional Controls

- ✓ Limit number of persons authorized to sign checks
- ✓ Prohibit facsimile signatures or signature stamps
- ✓ Record receipts as mail is opened
- ✓ Consider using lockbox service to process receipts
- ✓ Mail checks promptly and directly to payees
- ✓ Require that checks hand-delivered by committee be signed for by person receiving them

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Basics & Best Practices

D. Additional Controls

1. Limit the number of persons with access to committee funds and persons authorized to sign checks.
2. Prohibit facsimile signatures or automatic signatures.
3. Record receipts as the mail is opened.
4. Consider use of a lockbox service for receipts.
5. Mail any checks promptly and directly to payees.
6. Require a signature for any checks that are hand-delivered to a committee.

Internal Controls Resources

- Best Practices for Committee Management (Brochure)
  http://www.fec.gov/pages/brochures/bestpractices.shtml
- Best Practices: Internal Controls & Recordkeeping (Video)
  http://youtu.be/c46BW9VUyto
- Internal Controls for Political Committees
  (Audit Handout)
  http://www.fec.gov/law/policy/guidance/internal_controls_polcmtes_07.pdf
- Policy: Safe Harbor for Misreporting Due to Embezzlement
  - *Record* Summary of Policy Statement
    http://www.fec.gov/law/policy.shtml#bestefforts

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Basics & Best Practices

Responding to Misappropriation

- Contact the FEC
  - RAD Analyst can help with reporting challenges
  - OGC can help with *sua sponte* submission
- Consult with Counsel
  - Determine if *sua sponte* submission is appropriate
- Notify law enforcement
- Do best to file complete and accurate reports by the established deadlines

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Basics & Best Practices

PART 4: HIGHLIGHT COMPLIANCE RESOURCES

Objectives

- Review Basic Provisions of FECA
- Examine Recordkeeping and Filing Requirements
- Recommend “Best Practices”
- **Highlight Compliance Resources**

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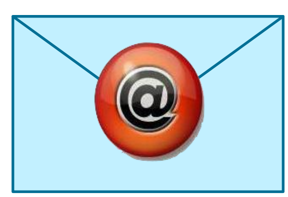
Basics & Best Practices

Compliance Help



www.fec.gov 1-800-424-9530 info@fec.gov

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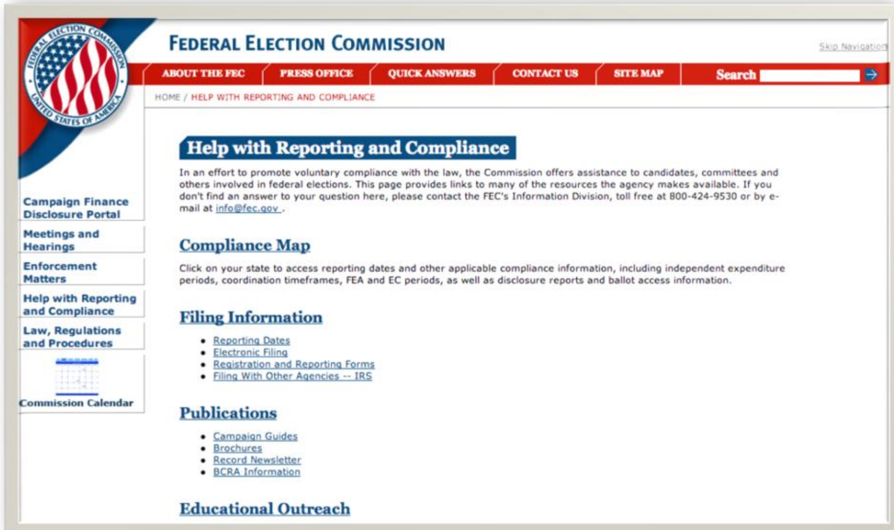
Basics & Best Practices

Compliance Help



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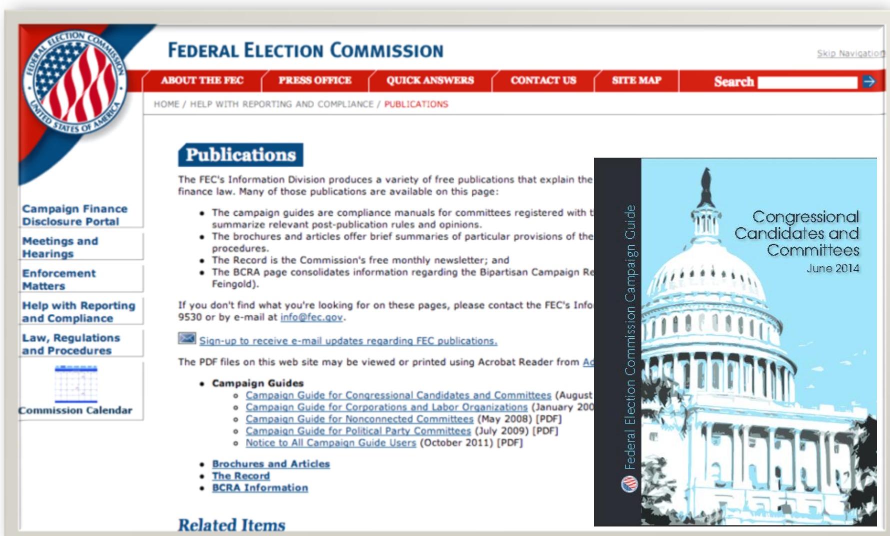
Basics & Best Practices

Compliance Help



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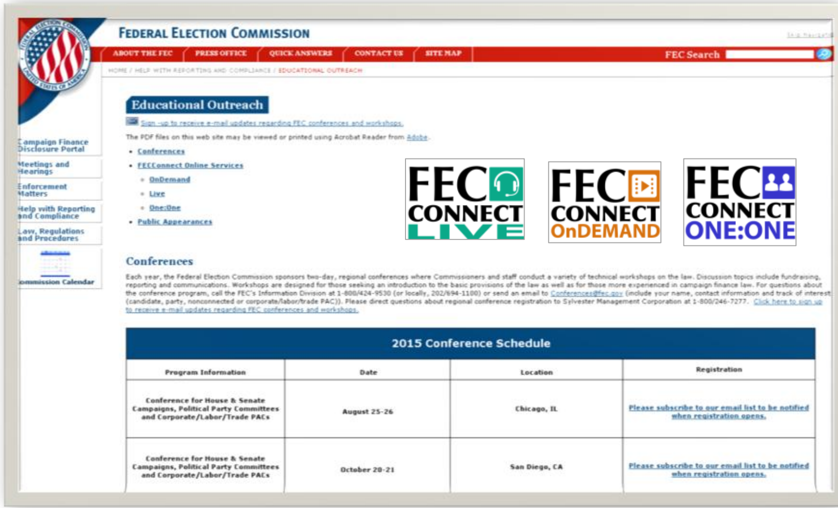
Basics & Best Practices

Compliance Help



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Basics & Best Practices

Compliance Help

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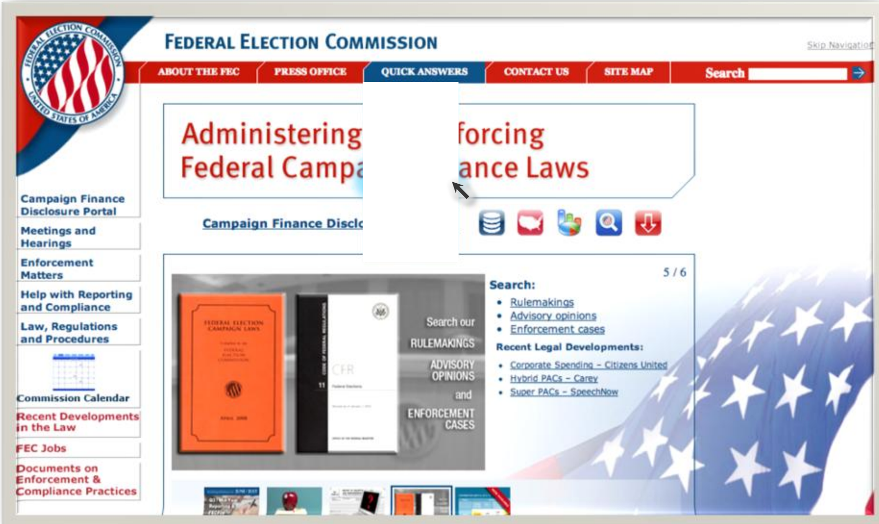
Basics & Best Practices

Compliance Help



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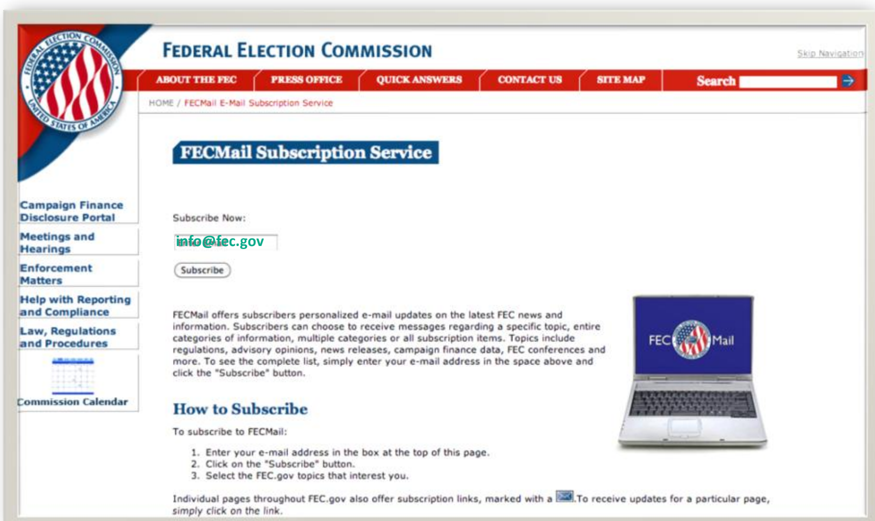
Basics & Best Practices

Compliance Help



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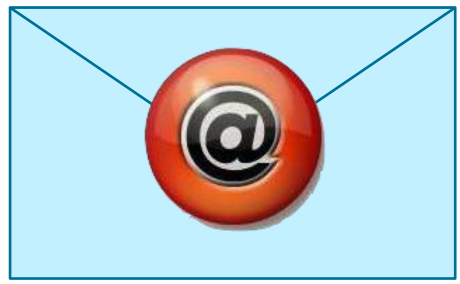
Basics & Best Practices

Compliance Help



1-800-424-9530

info@fec.gov

Toll-free Information Line

- For tech support with e-filing, press 4 for the Electronic Filing Office
- For reporting help, press 5 to reach your RAD Analyst
- For other questions, press 6 for an Information Specialist

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RAD FAQs Web Page

http://www.fec.gov/rad/index.shtml

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Basics & Best Practices

Workshop Evaluation: **https://www.surveymonkey.com/r/T63RVVP**